



# MAYOR AND COUNCIL AGENDA

NO. 8

DEPT.: Community Planning and Development Services  
CONTACT: Scott E. Parker, AICP, Planner III

DATE: January 3, 2004

**ACTION:** Discussion and Instructions to staff for Text Amendment TXT2004-00211, to amend section 25-643(9) of the Zoning Ordinance to add "nursing homes" as a permitted use within the residential areas of a Comprehensive Planned Development (CPD). King Farm Associates, Applicant.

## ACTION STATUS:

**FOR THE MEETING OF:** 01/18/05

INTRODUCED

PUB. HEARING 9/13/04

INSTRUCTIONS

APPROVED

EFFECTIVE

**ROCKVILLE CITY CODE,**

CHAPTER

SECTION

☐ CONSENT AGENDA

**RECOMMENDATION:** Instruct staff to prepare the Resolution of Approval.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Impact will be related to the amendment of the Concept Plan of King Farm, and will allow for the accommodation of this use as part of any Concept Plan Amendment to allow for senior housing at King Farm.

## PROPOSAL:

The applicant has requested this text amendment to facilitate adding "nursing homes" to the list of permitted uses in Section 25-643 (9), which is the section of the Ordinance pertaining to permitted uses within residential areas of a CPD. The other uses currently permitted under that section include detached one-family dwellings, attached dwelling units, multiple family dwellings, housing for the elderly and the physically handicapped, and semi-detached dwellings (as approved as part of a CPD application to accommodate provision of moderately priced dwelling units).

## STAFF COMMENT:

King Farm Associates is applying for this text amendment as part of a proposed Concept Plan amendment, which is concurrently being evaluated by the Mayor and Council. The proposed amendment of the Concept Plan is to identify areas approved for office that can be alternately used for a senior housing component. Part of the proposal will be for nursing home type facilities, which requires this text amendment. The other uses proposed with the Concept Plan amendment are currently allowed under the CPD section of the Ordinance.

## RECOMMENDATION:

During review of the text amendment, staff has noted that the proposal would allow nursing homes within all residential areas of a CPD, which could potentially be inconsistent with other areas of the City. Nursing homes are allowed by Special Exception in the R-E through R-60 zones where a wider separation of buildings is required. The larger setbacks help mitigate the more commercial aspects of a nursing home. Examples of this commercial aspect would be the 24-hour-a-day doctor and nurse staffing, and the utilization of ambulances and other modes of transport. Therefore, staff is recommending additional text language that limits nursing home uses to the residential areas identified within the proposed Concept Plan amendment that specifically allows nursing homes.

The effect of this change would be to allow nursing homes within the context of an overall senior housing component, where its presence would be appropriate, while not allowing them in all residential areas of all CPDs, where the impacts could be detrimental to the residential character of a particular residential area.

## PLANNING COMMISSION RECOMMENDATION:

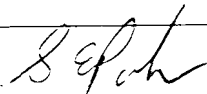
On June 23, 2004, The Planning Commission reviewed this application and provided comments for consideration. The Commission agreed with staff's recommendation regarding the language change, and unanimously voted to recommend approval of the text amendment to the Mayor and Council.

Testimony at the Planning Commission's Public Hearing was in favor of the amendment. One e-mail in opposition to the amendment was received (Attachment 3).

## MAYOR & COUNCIL PUBLIC HEARING COMMENTS

Two members of the public spoke in favor of approving the text amendment.

### PREPARED BY:

 1-6-05

Scott Parker, AICP, Planner III

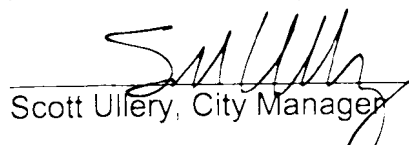
### APPROVE:

  
Robert Spalding, AICP, Chief of Planning

1-6-5  
Date

  
Arthur D. Chambers, AICP, Director CPDS

1/6/05  
Date

  
Scott Ullery, City Manager

1/18/05  
Date

## LIST OF ATTACHMENTS:

1. Applicant's letter and justification statement.
2. New Text Language
3. Public Comment

**LINOWES  
AND BLOCHER LLP**  
ATTORNEYS AT LAW

RECEIVED  
CITY CLERK'S OFFICE  
2004 JUN -2 PM 4:41

June 2, 2004

Barbara A. Sears  
301.961.5157  
bsears@linowes-law.com

Mayor Giammo and Councilmembers  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Application for Text Amendment to Section 25-643 of the Rockville Zoning Ordinance

Dear Mayor Giammo and Councilmembers:

On behalf of our client, King Farm Associates ("KFA"), enclosed please find a completed Application for a Text Amendment to the Zoning and Planning Ordinance ("Zoning Ordinance") and a check in the amount of \$550.00 representing the filing fee for the application.

The purpose of the proposed text amendment is to add nursing homes as permitted uses in comprehensive planned developments ("CPD"). Pursuant to Section 25-643 of the Zoning Ordinance as now written, "housing for elderly and physically handicapped" is a permitted use in a CPD, but nursing homes are not included in the CPD use table. It is our understanding that the use designation for elderly and physically handicapped would permit independent elderly and assisted living units, but not nursing beds. Simultaneously with the filing of this text amendment application, KFA is seeking an amendment to the King Farm Concept Plan to allow up to 1.2 million square feet of approved office development to be alternatively developed as independent elderly, assisted living and nursing bed use. In order to implement this proposal and include nursing care, the text amendment is necessary. We believe the inclusion of such a use as a permitted use in the CPD use table is appropriate and desirable. We therefore respectfully request that Section 25-643 be amended to include this option in the CPD.

Thank you for your time and consideration of this matter. If you have any questions or require any additional information, please feel free to contact us.

Sincerely,

LINOWES AND BLOCHER LLP

Barbara A. Sears

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Proposed Text amendment language for CPD1995-0002B

Section 25-643

FROM: Which reads as follows:

- (9) Residential
  - a. Detached one- family dwellings;
  - b. Attached dwelling units;
  - c. Multiple-family dwellings;
  - d. Housing for elderly and physically handicapped;
  - e. Semi-detached dwellings may be approved as part of a CPD concept plan application to accommodate provision of moderately priced dwelling units;

To add the following:

- f. Nursing homes
-

# ATTACHMENT 3

Brenda Bean/RKV  
07/20/2004 03:39 PM

To salaur@att.net  
cc mayorcouncil, Scott Parker/RKV@RKV, Art  
Chambers/RKV@RKV, Bob Spalding/RKV@RKV  
bcc  
Subject Re: King Farm Zoning Amendment

Dear Ms. Laur:

Thank you for your email comments regarding the application of King Farm Associates to amend the Zoning Ordinance to add "nursing homes" as a permitted use within the residential areas of a Comprehensive Planned Development (CPD). Your comments, which have been seen by the Mayor and Council, will be placed in the file and become part of the official record in this matter. After the record closes on August 2, 2004, this item will come back before the Mayor and Council, probably in September, for final action. On behalf of the Mayor and Council, thank you very much for taking the time to write. They appreciate your views and comments.

Very truly yours,

Exhibit # 1

Subject: TX104-00211

Public Hearing Date: 7/19/04

Brenda Fitzpatrick Bean  
Deputy City Clerk  
240/314-8280  
bbean@rockvillemd.gov

salaur@att.net

salaur@att.net  
07/20/2004 01:46 PM

To mayorcouncil@rockvillemd.gov  
cc  
Subject King Farm Zoning Amendment

Dear Mayor and Council Members,

I recently moved from Raleigh, North Carolina, where I owned a home on a 1/3 acre lot approximately 5 miles from the center of the capital. I looked at hundreds of homes on the internet in Montgomery and Frederick Counties. After a great deal of searching, I looked at the King Farm community. During a meeting with the Stanley Martin builder's representative, I asked a number of questions about the King Farm Community plan because purchasing a townhome in King Farm represents an investment that is over 3 times the value of my home in North Carolina. I was assured that the final phase in which we were interested in was just that final I was told that the only space currently undeveloped would be offices at some time in the future. The fact that the

community plan was final weighed in heavily in my decision as property values are important to me. The possibility that a nursing home may be built instead of an office building has me greatly concerned. My husband and I signed a contract with the builder with the understanding that the community plan would not change, as did many other residents. That is the human side of this story but what about the environmental side of it?

I have worked as an environmental engineer for the last 7 years so I know a little bit about the subject. The environmental impact of locating another highly populated project (i.e., assisted living, retirement and nursing home) within a community that is already highly populated will increase the burden on the environment in the area as well as put an additional drain on resources. Energy to cool the "new residential" project will be higher, since unlike an office building you can't turn off the air conditioner or heater on nights and weekends. More energy useage means more air pollution. In addition, there will be greater demands on water supplies and solid waste management. Has anyone thought about what will be done with the medical waste (e.g., used needles, soiled dressings, unused pharmaceuticals, etc.) from the nursing home? What about the increased traffic this type of facility will result in? What about the additional noise at odd hours from ambulances and other medical personnel? From equipment and supplies vendors?

To change the rezoning now (and the original community plan) seems unethical at best. At a time when our national government seems to be in the back pocket of industry, it would be refreshing to see our local government truly represent the people/voters rather than the interests of big business.

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~~I look forward to your reply.~~

Sincerely,

Michele Laur  
(soon to be a resident at 1216 Gaither Road)